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CARRIER CORPORATION
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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 ROBERT SCHOELZEL,

12 Plaintiff,

13 v.

14 ALLIS-CHALMERS CORP., et al,

15 Defendants.

Case No. C 08-03113 JSW

**JOINT STIPULATION TO DISMISS
DEFENDANT CARRIER
CORPORATION AND TO REMAND
ACTION TO STATE COURT**

[Local Rules 7-1 and 7-12; FRCP 41]

16 Come now Plaintiff ROBERT SCHOELZEL ("Plaintiff") and Defendant CARRIER
17 CORPORATION ("CARRIER"), who file the following joint stipulation pursuant to Local Rules
18 7-1 and 7-12:

19 WHEREAS, Defendant CARRIER removed this case to the United States District Court
20 for the Northern District of California on June 27, 2008, on the ground that the Court has
21 "federal officer" subject matter jurisdiction under 28 United States Code § 1442(a) based on
22 Plaintiff's allegations that his injury was caused by products designed and manufactured by
23 CARRIER under the supervision and control of the United States government;

24 WHEREAS, Defendant CARRIER was the sole removing defendant and no other
25 defendant joined in removal or filed a separate notice of removal;

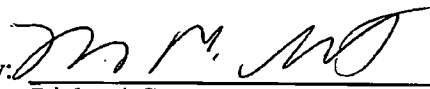
26 WHEREAS, Plaintiff and Defendant CARRIER, the affected parties, have now reached a
27 resolution of Plaintiff's claims against CARRIER;

1 WHEREAS, Defendant CARRIER's desire for a federal forum for this action is now
2 moot given the resolution of Plaintiff's claims against it; and

3 WHEREAS, pursuant to the parties' resolution, Plaintiff and Defendant CARRIER seek
4 to have this action remanded to state court, IT IS HEREBY STIPULATED by the affected
5 parties, Plaintiff and Defendant CARRIER, that all claims against Defendant CARRIER shall be,
6 and hereby are, dismissed with prejudice pursuant to Rule 41 of the Federal Rules of Civil
7 Procedure and that this action shall be, and hereby is, immediately remanded to the San
8 Francisco County Superior Court, the court in which it was originally filed and from which it
9 was removed.

10 DATED: November 3, 2008

BRAYTON PURCELL

11
12 By: 
13 Richard Grant
14 Attorneys for Plaintiff
15 ROBERT SCHOELZEL

16 DATED: November __, 2008

TUCKER ELLIS & WEST LLP

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19 By:
20 Lance Wilson
Attorneys for Defendant
CARRIER CORPORATION

21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.** Case is REMANDED to the
22 Superior Court of California, County of San Francisco, Case. No. 453669. The Clerk shall send
23 a certified copy of this Order to the Clerk of the Court for the Superior Court of California,
24 County of San Francisco.

25 Dated: November __, 2008

By: _____

26 HONORABLE JEFFREY S. WHITE
27 UNITED STATES DISTRICT JUDGE
28

1 WHEREAS, Defendant CARRIER's desire for a federal forum for this action is now
2 moot given the resolution of Plaintiff's claims against it; and

3 WHEREAS, pursuant to the parties' resolution, Plaintiff and Defendant CARRIER seek
4 to have this action remanded to state court, IT IS HEREBY STIPULATED by the affected
5 parties, Plaintiff and Defendant CARRIER, that all claims against Defendant CARRIER shall be,
6 and hereby are, dismissed with prejudice pursuant to Rule 41 of the Federal Rules of Civil
7 Procedure and that this action shall be, and hereby is, immediately remanded to the San
8 Francisco County Superior Court, the court in which it was originally filed and from which it
9 was removed.

10 DATED: October __, 2008

BRAYTON PURCELL

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13 By: _____

Richard Grant
Attorneys for Plaintiff
ROBERT SCHOELZEL

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16 DATED: November 3, 2008

TUCKER ELLIS & WEST LLP

17
18
19 By: 

Lance Wilson
Attorneys for Defendant
CARRIER CORPORATION

20
21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.** Case is REMANDED to the
22 Superior Court of California, County of San Francisco, Case. No. 453669. The Clerk shall send
23 a certified copy of this Order to the Clerk of the Court for the Superior Court of California,
24 County of San Francisco.

25 Dated: October __, 2008
26 November 7, 2008

27 By: 

HONORABLE JEFFREY S. WHITE

UNITED STATES DISTRICT JUDGE